

Richard Smith,
Director
Air Pollution Control District
for the county of San Diego
10124 Old Grove Road
San Diego, CA 92131

December 5, 2005

John E. Wilks, III
Interested Party
Post Office Box 1920
Bonita, CA 92108-1920

Re: Monitoring of Air Quality along the San Diego—Tijuana Border Corridor

Dear Mr. Smith:

Thank you for visiting with me in the lobby of your Office at the close-of-business on November 18th. I appreciated your comments and information regarding the sampling that is done at the District's data collection site in the federal employee's parking lot at the Port of Entry at Otay Mesa, San Diego.

As you will recall, my inquiries about the sampling stemmed from concerns about the toxic vapors released by the recent fire at the plant of the maquiladora, Corrugados de Baja California, S.A. de C.V. in the Otay industrial district in Tijuana, Baja California, Mexico. Corrugados was a huge plant, which employed 450 persons. Because it made paper boxes, plastic containers, wrappings and other packaging items, there is no doubt that the conflagration released volatile organic compounds (VOC's), solvents (like benzene and toluene), and their oxidation products into the air column, which crossed the international border into the United States and into your District. Because they also manufactured packaging for medical products, it is also high likely that the fire released dioxins from the burning plastics, and sterilization agents like ethylene oxide, radionuclide and indicator organism. Because PCS's are combustion products of silicones used in medical devices produced and packaged in the maquiladora other fugitive releases may have occurred during the fire or in the fire suppression activity. I am concerned about the Corrugados' release and another the release, which occurred last week at a similarly situated vehicle, impound lot, just across the border from the P.O.E. Otay Mesa. In the more recent fire, many vehicles burned with the attendant release of VOC's and particulate matter (PM 2.5 & 10.0).

You and I are aware that the District does not conduct real time monitoring of air quality. Rather, it samples the air after-the-fact. I was very surprised to learn from you that the sampling at the Otay site is not speciated to enable your staff to

differentiate between individual compounds and constituent components. That indicates to me that the air quality forecast periodically published by the District, under the description of “good”, “moderate” or “USG” is a average volume reading and therefore is not a description of imminent health risk or danger as would be available, if the reading were speciated and real-time.

There are now more than 800 maquiladora operating between the counties of San Diego and Imperial, and the state of Baja California. It is incredible that the California Air Resources Board (CARB) has apparently not provided the guidance or the funding for your District to meet minimum acceptable health and safety standards. It appears that the “precautionary principal” of health public safety and fiduciary conduct is not embraced by the CARB. It also appears that the CARB may be oblivious to the potential adverse impacts of the industrial and transportation activities along the border from Mexico’s third largest city. The newest high school in the city of San Diego sits astride the border in Otay Mesa. The largest residential developers in the county are continuing to build tens of thousands of homes within sight of the border in Otay Mesa/Chula Vista/San Ysidro generally along the trace of State Highway 905. Kaiser Permanente has recently constructed a regional medical offices and health care facility within sight of the border. The Highway #125 toll road in is final phases of construction; it will terminate at the border in Otay Mesa. The area has developed, but the CARB has not reacted. In my view, what is occurring is analogist to the challenging situation in the Greater Long Beach /Los Angeles Seaport Area that the South Coast Air Quality Management District (SCAQMD) is now facing. Both situations develop by unbridled and un-coordinated growth that overwhelmed the federal and state regulators. Reactivity and not pro-activity are now the order of the day for regulators.

You are undoubtedly aware of the run-a-way air quality disaster in the Greater LA/LB Harbor Area. Due to a decade of environmental activism and judicial action by the National Resources Defense Council (NRDC) and the Coalition for Clean Air, and interaction with the CARB, U.S. EPA, and the SCAQMD, environmental activities have finally moved the city of Long Beach to “do the right thing.” Last week the Port of Long Beach (POLB), aka the Harbor Department of the city of Long Beach, approved a real-time air quality monitoring. Real-time air quality conditional at the Port of Long Beach will soon be just a mouse click away. The Commissioners voted November 28, 2005 for the development of a \$1 million monitoring network that will make up-to-the-minute air quality data available at the Port’s website. (www.polb.com). The network would include two air-monitoring stations—the first of its kind located within the Port. The south Coast Air Quality Management District operates similar air-monitoring stations but none within five miles of the Port. Ironically, the vote was the first of two votes necessary to approve supplemental funding of \$1,016,000.00 to an existing contract with Science Applications International, Corp., a San Diego-based research and engineering firm. The monitors will stream reliable, accurate raw data directly to the Port website, tracking air pollutants such as nitrogen dioxide

(NO₂), ozone (O₃), carbon monoxide (CO), sulfur dioxide (SO₂), respirable particulate matter (PM₁₀ and fine particulate matter (PM_{2.5}).

I also noted the announcement this week (12/023/05) that the Air Resources Board (CARB) has released its Draft Emission Reduction Plan for Ports and International Goods Movement. Please note that I have previously discussed the issue with CARB representatives that in my opinion the air pollutants entering the San Diego District from Mexico should be considered any inventory and plans for mitigation or prevention. Otay Mesa and Mexicali should figure into the US Federal Plans for Good Movement Emission Reduction.

The Draft published by the CARD this week includes assessment of statewide health impacts from emissions related ports and international goods movement, and specific actions necessary to reduce those emissions and protect public health. The plan is available on CARB's website at (<http://www.arb.ca.gov/planning/gmerp/gmerp.htm>) along with information on related activities.

It appears that the San Diego District has an opportunity to stand up and be counted by submitting comments to the CARB's draft plan.

Unless the District enhances the capabilities of its site at Otay Mesa, changes its protocol, and switches to real-time monitoring, I do not envision the District being able to provide early or late warning to the emergency response authorities in San Diego city and county. It is imperative that one regulatory body be able to determine when toxic or carcinogenic substances are present in the air?

As you are aware, the CARB and its air quality control districts emanated from the Federal Clean Air Act passed more than thirty years ago. The state of California, among others, elected to establish and operate its own air resource operation, in lieu of the U.S. E.P.A. assuming that field role. California in the interim has passed significant legislation that mandated state standards, which are roughly three times higher than the federal standards in many criteria for air quality. Nevertheless, the North American Free Trade Agreement (NAFTA), and the Supplemental Agreement on the Environment, effective January 1, 1994, obligated the federal governments of the United States and Mexico to the NAFTA is the environmental agreement.

In the NAFTA Agreement, the signatories agreed to form a Commission for Environmental Cooperation. Additionally, the signatories agreed to form a Council under the Commission with a purpose of considering and developing recommendations regarding the "transparency and border environmental issues, such as the long-range transport of air and marine pollutants." (Article 9, provision (2)(n)). Further, in Article 12, the Council under the Commission for Environmental Cooperation is mandated to provide an annual report to the NAFTA Free Trade Commission. The stated purpose of the report is to "achieve

the environmental goals and objectives of the NAFTA.” Selected goals are: “(b) Pollution prevention techniques and strategies, (c) Approached and common indicators for report on the state of the environmental, (f) Promotion of publish awareness regarding the environment, (k) Environmental emergency preparedness and response activities, and (p) Approaches to environmental compliance and enforcement.”

I argue that without speciation and real-time monitoring, the U.S. E.P.A., through its agents, the C.A.R.B. and the District, can not possibly provide the U.S. Secretaries of the Departments of Interior, Commerce, and State with the data, analysis, and recommendations needed to achieve those goals and to attain compliance with the terms of the Treaty and the Treaty’s three Supplemental Agreements, as ratified by the U.S. Senate in 1993.

For all of these reasons, I ask that you consult with the C.A.R.B. to address the necessity to change your protocol at the Otay Mesa data collection site.

Thank you for your consideration of these important matters.

Cordially,

John E. Wilks, III